The Registry of the Competition Tribunal

2010-11

Departmental Performance Report

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

Table of Contents

Minister's Message 1

Section I: Organizational Overview 3

- Raison d'être 3
- Responsibilities 3
- Strategic Outcome and Program Activity Architecture (PAA) 4
- Organizational Priorities 5
- Risk Analysis 7
- Summary of Performance 8
- Expenditure Profile 10
- Estimates by Vote 11

Section II: Analysis of Program Activities by Strategic Outcome 12

- Strategic Outcome 12
- Program Activity: Process Cases 12
- Performance Summary and Analysis of Program Activity 13
- Lessons Learned 14
- Strategic Outcome 15
- Program Activity: Internal Services 15
- Performance Summary and Analysis of Program Activity 15
- Lessons Learned 16

Section III: Supplementary Information 17

- Financial Highlights 17
- Financial Highlights Chart 18
- Financial Statements 18

Section IV: Other Items of Interest 19

- Organizational Contact Information 19

Minister's Message

Last year, the Industry Portfolio played a key role in advancing the government's agenda in Year 2 of Canada's Economic Action Plan.

Specific stimulus measures taken by the Industry Portfolio under Canada's Economic Action Plan were aimed at boosting economic development, supporting small and medium sized enterprises, improving Canada's research and development capacity and strengthening communities. The Portfolio's stimulus measures targeted communities through the Marquee Tourism Events Program and Broadband Canada: Connecting Rural Canadians program. Further investments in the Industrial Research and Assistance Program, the Industrial Research and Development Internship program, the Canada Graduate Scholarships Program and the Knowledge Infrastructure Program expanded Canada's research and development capacity. Investing in the Canadian space industry maintained Canadian expertise and leadership in space robotics. Through these and other stimulus initiatives, we helped create jobs, build communities and nurture the roots of economic recovery.

In 2010-11, the Competition Tribunal continued in its judicial role of hearing cases dealing with matters related to the *Competition Act* such as mergers, misleading advertising and restrictive trade practices. As in previous years, the Tribunal acted on matters involving potential effects on competition. The outcomes of the Competition Tribunal's cases influence both merchants and Canadian consumers.

Cultivating an environment for job creation, growth and competitiveness, both domestically and internationally, remains a priority for Industry Portfolio. We will work to improve cost-effectiveness and efficiency and will contribute to the Government of Canada's priority to balancing the budget and achieving real results for all Canadians.

It is my pleasure to present the Registry of the Competition Tribunal's Departmental Performance Report for 2010-11.

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

Section I: Organizational Overview

Raison d'être

The Competition Tribunal is a quasi-judicial tribunal whose sole purpose and raison d'être is to hear and decide all applications related to civil reviewable matters set out in the *Competition Act*: deceptive marketing practices (Part VII.1) and restrictive trade practices (Part VIII). The purpose of this legislation is to maintain and encourage competition in Canada and to provide a fair and secure marketplace for Canadians. The Tribunal operates at arm's length from government and its departments. The *Competition Tribunal Act* that establishes the Tribunal also provides for the Registry of the Competition Tribunal, an administrative infrastructure to support the proper conduct of the business of the Tribunal.

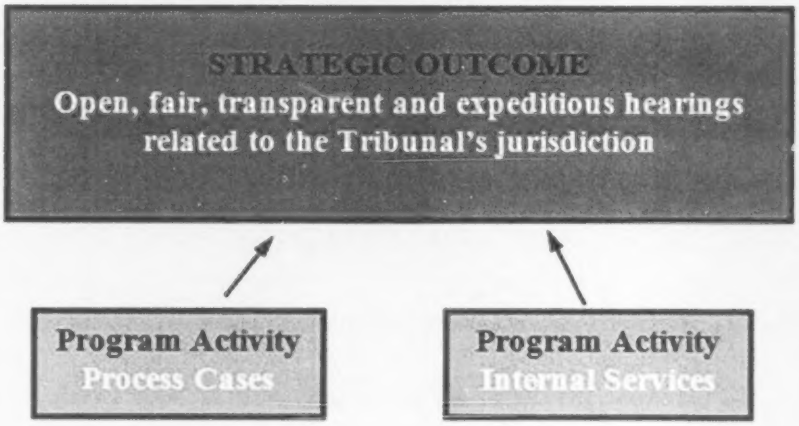
Responsibilities

The Registry of the Competition Tribunal is designated a department under the *Financial Administration Act*. It supports all aspects of the Tribunal's work and ensures the Tribunal can hold hearings anywhere in Canada, as necessary. Registry headquarters are located in the National Capital Region. Parties to Tribunal cases file applications and documents with the Registry, which also issues documents and orders for all cases brought before the Tribunal. This Departmental Performance Report pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

Since its creation in 1986, the Tribunal has heard cases relating to mergers, abuse of dominant position, deceptive marketing and various trade practices that have involved key players in several industries. Cases have involved a number of business areas, including pharmacies; furniture stores; importers of cast iron pipes; airline computer reservation systems; oil refining and gasoline retailing; community newspapers; aspartame; waste disposal; car parts; marketing research services; green handling services; weight-loss products; fuel-saving devices; fireplace maintenance products; banking services; poultry supply; and career management services.

Strategic Outcome and Program Activity Architecture (PAA)

The chart below illustrates the Registry of the Competition Tribunal's framework for how its program activities contribute toward its strategic outcome.



Process Cases

The Registry of the Competition Tribunal's main program activity is to process cases by providing the public with efficient access to case documents and decisions, as well as with efficient hearing support services.

The Tribunal hears cases and the Registry manages the material for the cases heard by the Tribunal under Part VII.1 (deceptive marketing practices) and Part VIII (restrictive trade practices) of the *Competition Act*.

Internal Services

Internal Services is an umbrella term for activities under the Registry's administration that meet program needs and other corporate obligations. These activities are: management and oversight services; communications services; legal services; human resources management services; financial management services; information management services; information technology services; real property services; material services; acquisition services; and travel and other administrative services.

Organizational Priorities

Performance/Priority Status Legend

Met all: 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Mostly met: 80 to 99 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Priority	Type[1]	Strategic Outcome
In-depth training for Tribunal members	New	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
Status: Met all		
• The Tribunal's mandate expanded in March 2009. The Competition Act was amended and a new civil provision addressing price maintenance practices that could have an adverse effect on competition was included. • A training session on mergers and acquisition was provided to the members by an expert in the field of micro-industrial economics and international trade. Members discussed some of the economic theoretical and empirical measurement methods as well as key concepts and factors applied in merger analysis.		

Priority	Type	Strategic Outcome
Increase electronic hearing of cases	New	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
Status: Met all		
• Electronic hearings are shorter due to the instant display of documents as opposed to having the parties and members access the required documents by searching through binders and tabs. • After some successful tests with the e-hearing equipment, the Chairperson issued a directive to the legal profession and as of January 1, 2012, electronic hearings will be the only method by which parties will be able to proceed for hearing before the Tribunal.		

1. "Type" is categorized as follows: **Previously committed to**—committed to in the first or second fiscal year before the subject year of the report; **Ongoing**—committed to at least three fiscal years before the subject year of the report; and **New**—newly committed to in the reporting year of the Departmental Performance Report.

Priority	Type	Strategic Outcome
Develop partnerships with other small agencies to provide registry staff more in depth experience in case processing	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
Status: Met all		
• Tribunal cases are specialized therefore increased exposure to other organizations will better prepare staff to assist Tribunal members and parties in the processing of cases. • Two Registry Officers had assignments with other organizations during the fiscal year. The feedback received from the participants has been really good as it provided them additional opportunities to gain experience in providing service to the public in a different environment.		

Risk Analysis

The Registry of the Competition Tribunal has a major planning challenge in that the Tribunal can only react to external demands. Its sole function is hearing references and applications and issuing orders. The number of applications brought before the Tribunal depends on the enforcement policy adopted by the Commissioner of Competition and the number of applications filed by individuals or companies under the private access provisions of the Act.

The demand for services from the Registry has remained relatively stable even with the increase in the Tribunal's jurisdiction which includes the introduction of a new civil provision to address price dual-track approach to deal with agreements between competitors. Training members on this expanded jurisdiction was key in ensuring their readiness to hearing those types of cases.

An increase in the volume of work is still expected due to the new jurisdiction therefore more emphasis was placed on the enhancement of our electronic filing system in anticipation of the introduction of a directive to the parties to proceed electronically with all cases. The parties will benefit from shorter hearings resulting from maximizing the use of hearing room technologies.

Registry staff turnover has been minimal during the fiscal year. The Registry continued to provide training to some employees identified as back-ups to key positions to ensure they have the knowledge and abilities required to fulfill additional responsibilities if and when required. A partnership that had been established with the Registry of the Public Servants Disclosure Protection Tribunal was extended and two additional agreements were developed with other organizations, one with Health Canada and the other with the Courts Administration Services. These agreements maximized the use of resources and provided developmental opportunities to staff in an effort to retain them in key positions.

Summary of Performance

2010–11 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
$2,066	$2,164	$1,526

2010–11 Human Resources (full-time equivalents—FTEs)

Planned	Actual	Difference
14 FTEs	8.9 FTEs	5.1 FTEs

Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Performance Indicators	Targets	2010–11 Performance
Client level of satisfaction regarding quality of service	80% or more clients are satisfied with service received from the Registry	Met all - Our measure of client satisfaction is usually based on feedback obtained from parties to cases heard by the Tribunal. In 2010-11 a few hearings which related to the continuation of a case from previous year took place. Informal feedback received from parties after case management conferences on other cases was all very positive. No negative feedback was received through the website.
Tribunal members' level of satisfaction regarding quality of service	80% or more of Tribunal members are satisfied with service received from the Registry	Met all - The Tribunal members' level of satisfaction reached 90% in 2010-11. Their feedback was obtained on the quality of services provided by the Registry throughout a hearing life cycle, on organization of the members' continuous learning program, and to a lesser extent, on various ad hoc services provided to them.

Program Activity	2009–10 Actual Spending ($ thousands)	2010–11[2] ($ thousands)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Process Cases	$882	$1,549	$1,550	$1,648	$838	This program activity links to the Economic Affairs sector of activity of the Government of Canada, particularly the outcome area of a fair and secure marketplace.
Total	$882	$1,549	$1,550	$1,648	$838	

Program Activity	2009–10 Actual Spending ($ thousands)	2010–11 ($ thousands)			
		Main Estimates	Planned Spending	Total Authorities	Actual Spending
Internal Services	$486	$517	$516	$516	$688

The variance between the planned versus utilized financial and human resources was created by the lower than expected number of cases filed at the Tribunal. The Registry can only react to the number of applications brought before the Tribunal by the Competition Bureau or by individuals and companies under the private access provisions of the Act. A few large cases were filed in 2010-11 but their actual hearings have been scheduled for 2011-12 and 2012-13. This results in a deferral of expenses and not necessarily a savings because significant expenses will be incurred when these larger cases are going to be heard by the Tribunal.

The variance in Internal Services stems from expenses incurred to finalize our enhancements to the electronic filing system and to complete the implementation of the mandatory new security standards to our Information Technology infrastructure.

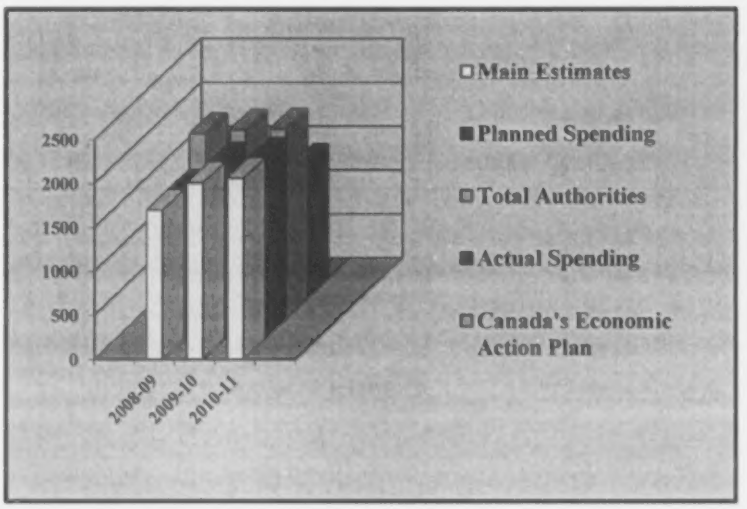
2. Commencing in the 2009–10 Estimates cycle, the resources for Program Activity: Internal Service is displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

Expenditure Profile

Canada's Economic Action Plan (EAP)

In view of the mandate of the Competition Tribunal, the Registry was not involved in the delivery of initiatives that were part of Canada's Economic Action Plan.

Departmental Spending Trend
($ thousands)



The lower than expected utilization of financial resources in 2010-11 resulted from the change in jurisdiction of the Tribunal that became effective in March 2010. There is usually a lag between the time a new legislation is implemented and the impact it has on the work of the Tribunal. The impact of the new jurisdiction should be felt in 2011-12 and future years.

Estimates by Vote

For information on our organizational Votes and/or statutory expenditures, please see the 2010–11 Public Accounts of Canada (Volume II) publication. An electronic version of the Public Accounts is available on the Public Works and Government Services Canada website.[3]

3. See Public Accounts of Canada 2010, http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Performance Legend

Met all: 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Mostly met: 80 to 99 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Program Activity: Process Cases

Program Activity Descriptions

The Registry of the Competition Tribunal provides all administrative support required for the proper conduct of the Competition Tribunal's business and for the Tribunal to hold hearings anywhere in Canada.

2010–11 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
$1,550	$1,648	$838

2010–11 Human Resources (FTEs)

Planned	Actual	Difference
10 FTEs	5.7 FTEs	4.3 FTEs

Expected Results	Performance Indicators	Targets	Performance Status
Timely registry services that provide the public efficient access to case records and decisions.	Percentage of case documents and decisions posted on website within 48 hours of filing.	90% of case documents and decisions posted on the website within 48 hours of filing.	Met all – All documents (100%) were posted within 24 hours of filing unless a confirmation that the documents did not contain confidential information was not provided.
Documents are processed according to timeframes established in the Rules of Procedure.	Documents processed within established timeframes.	100% of case documents processed within established timeframes.	Met all – All documents (100%) were processed within the established timeframe. The training and written procedures developed by the Registry staff helped expedite the processing of documents.
Efficient access to electronic hearings of applications.	Percentage increase in use of electronic hearings.	25% increase in the use of the electronic hearing system.	Mostly Met – The Chairperson issued a notice to the legal profession advising them that effective January 2012, all hearings must proceed electronically. The hearings held before the Tribunal in 2010-11 were a continuation of paper cases started in the previous year.

Performance Summary and Analysis of Program Activity

The Registry of the Competition Tribunal does not have control over the number of proceedings filed. It can only react to the number of applications filed by the parties. There was a decrease in the number of filings in 2010-11 compared with 2009-10. This is mainly due to the lower number of consent agreements filed at the Tribunal. Three proceedings were ongoing at the end of this fiscal year; scheduling orders were issued for them in the early part of 2011-12.

Number of Proceedings

	2010-11	2009-10
Number of proceedings filed	**10**	19
Number of proceedings completed	**8**	19
Number of proceedings filed from previous year and still ongoing	**3**	1
Number of decisions rendered	**14**	19

Lessons Learned

The number of documents filed through the Registry's website e-filing system was not increasing. The parties preferred to communicate with the Registry by regular email when security and size of documents limitations permit. The email system is preferred as it is simpler to use and they are more at ease with it. Based on these observations we developed an enhanced e-filing system to operate very much like an email system. The parties have very few information to enter and the new technology is compatible with all recent operating systems. The new system will also provide the functionality to Registry staff to send documents to the parties through the government of Canada secure channel. This will provide a more efficient way to serve documents to the parties and will motivate the parties to use the Registry's e-filing system versus their email system.

Strategic Outcome

Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Program Activity: Internal Services

Program Activity Descriptions

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Material Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services included only those activities and resource that apply across an organization and not to those provided specifically to a program.

2010–11 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
$516	$516	$688

2010–11 Human Resources (FTEs)

Planned	Actual	Difference
4 FTEs	3.2 FTEs	0.8 FTEs

Performance Summary and Analysis of Program Activity

Employee turnover was lower than last year, providing better continuity and enabling the organization to update some of its policies and procedures, as well as allowing the allocation of more resources toward employee development. Learning plans were developed for every employee and financial resources were committed to support the developmental objectives of all staff.

The electronic filing system had to be enhanced to reflect the changes to the secure channel's infrastructure implemented by Public Works and Government Services Canada. The Registry took this opportunity to enhance the functionalities of its electronic filing system with a view to making the system more user friendly while meeting the requirements of Treasury Board's directive on the Management of Information Technology Systems.

Lessons Learned

Making technology available and reliable does not mean all users are going to embrace it. Further training of internal users is required to integrate the benefits of technology in the day to day provision of services to Tribunal members and parties.

The sharing of resources between organizations provides developmental opportunities and increased possibilities of advancement to the staff. Some employees fully support the initiative while others are more attached to their home organization and have difficulty appreciating how this can benefit them. More emphasis on the medium and long term advantages of such assignments will have to be communicated to obtain stronger buy-in from all participants.

Section III: Supplementary Information

Financial Highlights

Condensed Statement of Financial Position
As at March 31, 2011 ($ thousands)

	% Change	2010–11	2009–10
Total assets	11%	332	298
Total liabilities	(8%)	299	326
Equity of Canada	-	33	(28)
Total	11%	332	298

Condensed Statement of Operations
For the year ended March 31, 2011 ($ thousands)

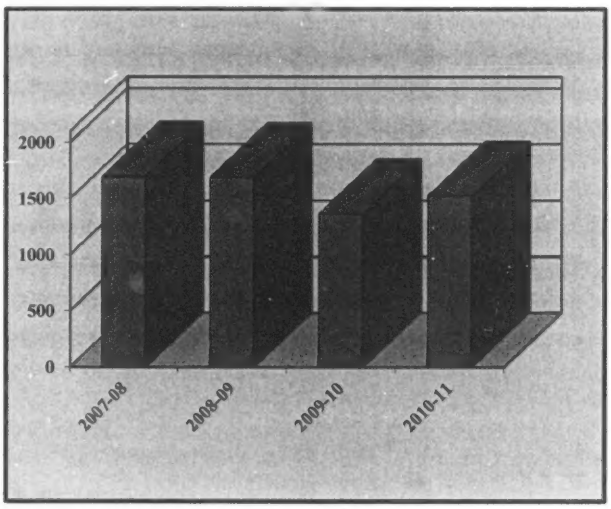
	% Change	2010–11	2009–10
Total expenses	3%	2,135	2,068
Total revenues	-	77	0
Net cost of operations	-	2,058	2,068

The amount reported under assets increased due to an investment in some information technology components required to support the Tribunal's e-filing and e-hearing activities. Total expenses are marginally higher than last year but they are in line with the level of complexity of the new proceedings filed this year compared with last year.

Financial Highlights Chart

Actual Spending

($ thousands)



Over the last four years, actual expenses have been maintained within our spending authority. The lower volume of cases can explain part of the variance. The sharing of resources between organizations has also generated some savings for the Registry. This positive variance is likely very temporary as the Registry does not have control over the number of cases filed and the additional jurisdiction given to the Tribunal is expected to generate more cases in the future.

Financial Statements

The Registry of the Competition Tribunal's financial statements can be found on the Tribunal's website: http://www.ct-tc.gc.ca

Section IV: Other Items of Interest

Organizational Contact Information

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